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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|------------------------|-------------|----------------------|---------------------|------------------|
| 09/681,896 | 06/21/2001 | Ignacio Larrain | 112843-25 | 2983 |
| 29157 | 7590 | 07/27/2006 | EXAMINER | |
| BELL, BOYD & LLOYD LLC | | | DESANTO, MATTHEW F | |
| P. O. BOX 1135 | | | ART UNIT | PAPER NUMBER |
| CHICAGO, IL 60690-1135 | | | 3763 | |

DATE MAILED: 07/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/681,896

Applicant(s)

LARRAIN ET AL.

Examiner

Matthew F. DeSanto

Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,7,8 and 14-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 7, 8, 14-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

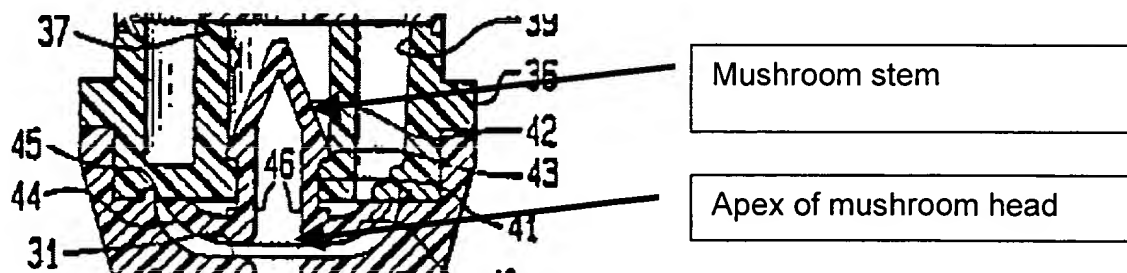
Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 7, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Franz applied (USPN 4,845,487) in view of Shannon et al. (5,738,662).

Franz discloses a valve system with an inlet, and outlet, a flexible membrane having a mushroom head (40) and a single stem (42), wherein the mushroom head has an apex, and wherein the mushroom head deforms under pressure, but fails to explicitly teach the valve having a cracking pressure of about .10 bar to .20 bar.



Shannon et al. discloses a medical valve with a varying cracking pressure depending on the specific application and treatment (Column 4, lines 25-50) and wherein the cracking pressure is between .10 and .20 bar (Column 8, lines 17-42).

Therefore, at the time of the invention it would have been obvious for one of ordinary skill in the art to combine the device Franz with the teachings of Shannon et al. because

Shannon et al. teaches the specific cracking pressure of the valve and the ability to change the cracking pressure depending on the application and/or treatment that valve must be used in.

3. Claims 1, 2, 7, 8, 14-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Franz applied (USPN 4,845,487) in view of Shannon et al. (5,738,662) and further in view of Cordner, Jr. et al. (5244463) and Minshall et al. (5009654).

Franz in view of Shannon et al. disclose the claimed invention with a pump and a fluid being administered to a patient but failed to disclose the specific pump used and the specific fluid that will be passed through the valve.

Since Franz disclosed that any pump and any fluid can be used in accordance with the valve, it would have been obvious to combine the references since it is well known in the art to use a rotary peristaltic pump with a check valve such as shown with Minshall et al. (Column 5, line 13-26) and using a pump with a check valve when delivering nutrition to a patient, such as shown with Cordner, Jr. et al. (Column 1, lines 54-64, and entire reference).

Therefore it would have been obvious to combine Franz with Cordner, Jr. et al. and Minshall et al. to obtain the invention as specified in claims 1, 2, 7, 8, and 14-20.

Response to Arguments

4. Applicant's arguments with respect to claims 1, 2, 7, 8, 14-20 has been considered but is moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew F. DeSanto whose telephone number is 571-272-4957. The examiner can normally be reached on Monday-Friday 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick LUCCHESI can be reached on (571) 272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Matthew DeSanto
Art Unit 3763
July 24, 2006